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SERVICE DATE – OCTOBER 28, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 426X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY–
ABANDONMENT EXEMPTION–IN MATAGORDA AND WHARTON COUNTIES, TX

Decided: October 27, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 20.89-mile line of railroad between BNSF milepost 66.95 in Bay City and milepost 54.00 near Cane Junction and between milepost 0.00 near Cane Junction and milepost 7.94 near Newgulf, in Matagorda and Wharton Counties, TX. Notice of the exemption was served and published in the Federal Register on September 29, 2004 (69 FR 58227-28). The exemption is scheduled to become effective on October 29, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 4, 2004. In the EA, SEA notes that the Texas Parks and Wildlife Division (TPWD) in Austin, TX, lists a number of rare, threatened, and endangered species for Matagorda and Wharton counties. Therefore, SEA recommends that, prior to any salvage activities, BNSF be required to consult with TPWD to evaluate and minimize impacts to rare, threatened, and endangered species that may occur in the project area. Also, SEA states in the EA that the U.S. Department of the Interior, Fish and Wildlife Service, Division of Ecological Services (FWS), in Houston, TX, has indicated that a pair of Federally threatened bald eagles is known to nest to the east-southeast of Newgulf. Therefore, SEA recommends that, prior to any salvage activities, BNSF be required to contact FWS to evaluate any impacts to the Federally threatened bald eagle, and, if necessary, develop protective measures within the project area to minimize potential adverse impacts. Finally, SEA states that the National Geodetic Survey (NGS) has identified 17 geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that BNSF provide NGS with at least 90 days' notice prior to the initiation of any salvage operations that may disturb or destroy any geodetic station markers so that plans can be made for their relocation.

Comments to the EA were due by October 19, 2004. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that BNSF shall: (1) consult with TPWD prior to any salvage activities to evaluate and minimize any impacts that may occur to rare, threatened, and endangered species in the project area; (2) contact FWS prior to any salvage activities to evaluate any impacts to the Federally threatened bald eagle, and, if necessary, develop protective measures within the project area to minimize potential adverse impacts; and (3) provide NGS with at least 90 days' notice prior to initiation of any salvage operations that may disturb or destroy any geodetic station markers so that plans can be made for their relocation.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary